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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

9 RICHARD ROY SCOTT,

10 Plaintiff,

11 v.

12 KELLY CUNNINGHAM,

Defendant.

No. C11-5509 BHS/KLS

ORDER REGARDING PLAINTIFF'S  
"MOTION FOR SELF RECUSE AND  
STAY"

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14 On February 27, 2012, Plaintiff filed a second "Motion for Self Recuse and Stay" in this  
15 matter and again requested that the Honorable Karen L. Strombom, United States Magistrate  
16 Judge, recuse herself from these proceedings. Dkt. No. 221. Plaintiff requests that the  
17 undersigned recuse herself on the grounds that "no reasonable person would issue or write" the  
18 orders she has entered in his matter, that she has misstated evidenced, ignored his declaration and  
19 exhibits, and knowingly lied. Id., pp. 2-3. Plaintiff asserts that Judge Strombom "knows the  
20 defendant is cheating and she supports same and has lied and she joins in doing so herself." Id.,  
21 p. 9.

22  
23 Pursuant to Local General Rule 8(c), Judge Strombom reviewed Plaintiff's motion,  
24 declined to recuse herself voluntarily, and referred the matter to the undersigned. Dkt. No. 233.  
25 Plaintiff's motion is therefore ripe for review by this Court.  
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1 Having reviewed the record in the above-entitled matter, the Court finds no grounds  
2 requiring Judge Strombom to recuse herself and DENIES the motion.

### 4 DISCUSSION

5 Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify herself in any  
6 proceeding in which her impartiality “might reasonably be questioned.” A federal judge also  
7 shall disqualify herself in circumstances where she has a personal bias or prejudice concerning a  
8 party or personal knowledge of disputed evidentiary facts concerning the proceeding. 28 U.S.C.  
9 § 455(b)(1).

11 Under both 28 U.S.C. §144 and 28 U.S.C. § 455, recusal of a federal judge is appropriate  
12 if “a reasonable person with knowledge of all the facts would conclude that the judge’s  
13 impartiality might reasonably be questioned.” *Yagman v. Republic Insurance*, 987 F.2d 622, 626  
14 (9th Cir.1993). This is an objective inquiry concerned with whether there is the appearance of  
15 bias, not whether there is bias in fact. *Preston v. United States*, 923 F.2d 731, 734 (9th  
16 Cir.1992); *United States v. Conforte*, 624 F.2d 869, 881 (9th Cir.1980). In *Liteky v. United*  
17 *States*, 510 U.S. 540 (1994), the United States Supreme Court further explained the narrow basis  
18 for recusal:  
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20 [J]udicial rulings alone almost never constitute a valid basis for a bias or partiality  
21 motion. . . . [O]pinions formed by the judge on the basis of facts introduced or  
22 events occurring in the course of the current proceedings, or of prior proceedings,  
23 do not constitute a basis for a bias or partiality motion unless they display a deep  
24 seated favoritism or antagonism that would make fair judgment impossible. Thus,  
25 judicial remarks during the course of a trial that are critical or disapproving of, or  
26 even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias  
or partiality challenge.

*Id.* at 555.

1           Reviewing Plaintiff's motion and accompanying documentation, it is impossible to  
2 escape the conclusion that Plaintiff does not like Judge Strombom's rulings and believes that  
3 those rulings have unfairly impacted his ability to pursue his claims in this and other cases. He is  
4 entitled to his beliefs and he is entitled to ask the Ninth Circuit Court of Appeals to overturn  
5 Judge Strombom's rulings on any legitimate grounds he can articulate; what he is not entitled to  
6 is having Judge Strombom removed from the case because he disagrees with those rulings.  
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8           A judge's conduct in the context of pending judicial proceedings does not constitute the  
9 requisite bias under 28 U.S.C. § 144 or § 455 if it is prompted solely by information that the  
10 judge received in the context of the performance of his duties. Bias is almost never established  
11 simply because the judge issued an adverse ruling.

12           In order to overcome this presumption, Plaintiffs would have to show that facts outside  
13 the record influenced decisions or that the presiding judicial officer's rulings were so irrational  
14 that they must be the result of prejudice. Plaintiffs do not allege any facts outside the record that  
15 improperly influenced the decisions in this matter. Plaintiffs have identified no error of law, and  
16 a review of Judge Strombom's rulings in this matter reveals no orders that were so outlandish or  
17 irrational as to give rise to an inference of bias.

18           Plaintiff may disagree with Judge Strombom's rulings but that is a basis for appeal, not  
19 disqualification. As Plaintiff has cited no extrajudicial source of bias, the Court finds that Judge  
20 Strombom's impartiality cannot reasonably be questioned. There being no evidence of bias or  
21 prejudice, Plaintiff's request for recusal is DENIED.  
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1 **CONCLUSION**

2 There is no reasonable basis for a voluntary recusal in this instance.

3 Accordingly it is hereby **ORDERED** that the undersigned **DENIES** Plaintiff's motion  
4 for Judge Strombom to recuse herself voluntarily.  
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6 The Clerk of the Court shall send a copy of this Order to Plaintiff and to any parties who  
7 have appeared in this action.  
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9 DATED this 4th day of April, 2012.  
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15 Marsha J. Pechman  
16 Chief United States District Judge  
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